IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 4TH DECEMBER 2007 / 13TH AGRAHAYANA 1929

WP(C).No. 29335 of 2007(P)

IA 923 OF 2007 IN OS.76/1992 of SUB COURT, TIRUR

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PETITIONER:

GOPALAKRISHNA MENON,
S/O. KODIYERI DAKSHAYANI ALIAS ITHONAMMA,
RESIDING AT OZHUR AMSOM, DESOM, TIRUR TALUK.

BY ADV. SRI.K.JAYAKUMAR
SRI.P.B.KRISHNAN

RESPONDENTS:

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1. KALAVUR CHEMBAZHY NARAYANANKUTTY,
S/O. KODIYERI DAKSHAYANI ALIAS ITHONAMMA,
RESIDING AT LAKSHMI VILAS, PERUVALLUR AMSOM,
PUKAYUR DESOM, P.O. OLAKARA, TIRURANGADI TALUK.

2. LATHIKA, D/O. -DO- IN -DO- -DO-.

3. APPA ALIAS ACHUTHA MENON, S/O. -DO-.
RESIDING AT OZHUR AMSOM, DESOM, TIRUR TALUK.

4. LEELA AMMA, D/O. -DO- IN -DO- -DO-.

5. MEENAKSHIKUTTY AMMA, D/O. -DO-.
RESIDING AT CHERUKAVU AMSOM, VENNAYUR DESOM,
ERNAD TALUK.

6. SARASWATHY AMMA, D/O. -DO-
RESIDING AT AZHUNHALAM AMSOM, PUTHUKODE DESOM,
ERNAD TALUK.

7. LAKSHMIKUTTY AMMA,
D/O. KODIYERI LEELA AMMA, RESIDING AT OZHUR AMSOM,
DESOM, TIRUR TALUK.

8. REMANI AMMA, D/O. -DO-
RESIDING AT -DO- -DO- -DO-.

9. PUSHPAKUMARI, D/O. -DO- IN -DO- -DO-.

10. RAMAKRISHNAN ALIAS KRISHNAKUMAR,
S/O. -DO- IN -DO-.

11. SASIKUMAR,
S/O. KODIYERI MEENAKSHIKUTTY AMMA,
RESIDING AT -DO- -DO-.

12. GEETHA, D/O. -DO-.
RESIDING AT CHERUKARA AMSOM, VENNAYUR DESOM,
ERNAD TALUK.

13. GOVINDAPRASAD,
S/O. KODIYERI LAKSHMIKUTTY AMMA, RESIDING AT
OZHUR AMSOM, DESOM, TIRUR TALUK.

14. RADHA AMMA, D/O. KAVIL JANAKI AMMA,
RESIDING AT KALADI AMSOM, DESOM, PONANI TALUK.

15. VIJAYALAKSHMI AMMA,
D/O. -DO- IN -DO- -DO-.

16. NARAYANANKUTTY ALIAS RAJAN,
S/O. -DO- IN -DO- -DO-.

17. ARAVINDAKSHAN, S/O. -DO- IN -DO -DO-.

18. AMBIKA, D/O. -DO- IN -DO- -DO-.

BY ADV. SRI.K.RAMACHANDRAN
SMT.R.MEERA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Appendix

Petitioner's Exts:

Ext.P1 dated 30.9.1997, true copy of the judgment in OS 76 of 1992, Sub Court, Tirur.

Ext.P2, dated 10.12.1990, true copy of the release deed.

Ext.P3, 30.6/2007, true copy of the order in IA 923 of 2007 inOS No.76 of 1992, Sub Court, Tirur.

M.N.Krishnan, J.

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W.P(C).No.29335 of 2007

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Dated this the 4th day of December, 2007.

JUDGMENT

This Writ Petition is preferred against the order of the Subordinate Judge, Tirur in I.A.No.923 of 2007 in O.S.No.76 of 1992. The subject matter is with respect to the release of the amount and the contention raised by the writ petitioner is that there had been release in favour of the writ petitioner. The court found that without a registered instrument, it cannot be effected and therefore, declined to entertain the objection and ordered issuance of cheque to the party.

2. I am informed that the amount has been withdrawn. Therefore, without going into the merits of the matter I close the Writ Petition making it clear that this shall not be a bar for considering that issue afresh when the matter arises in the final stage and the final decree proceedings. The cheque would have been issued on an undertaking and if such an undertaking is not there, there may be a direction to the person, who had

withdrawn the amount, to file an undertaking that he will abide by the orders of the court when the matter is finally disposed of.

Writ Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

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